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CONTENTS

No.

Page

PART C — LEGAL NOTICES

- | | | |
|-----|--|----|
| 83. | The Regulation of Wages (Agricultural Industry) Order, 1986 | S1 |
| 84. | The Regulation of Wages (Building and Construction Industry) Order, 1986 | S5 |

PUBLISHED BY AUTHORITY

THE WAGES ACT, 1964

(Act No. 16 of 1964)

THE REGULATION OF WAGES (AGRICULTURAL INDUSTRY)

ORDER, 1986

(Under Section 11)

In exercise of the powers conferred on him by Section 11 of the Wages Act, 1964 the Minister for Labour hereby makes the following Order:-

Citation.

1. This Order may be cited as the Regulation of Wages (Agricultural Industry) Order and subject to Section 11(6) of the Act, shall come into force on the 18th August, 1986.

Interpretation.

2. In this Order unless the context otherwise requires—

“Artisan” means a skilled employee who has passed a Government trade test or who has served an apprenticeship recognised by the Government;

“Basic minimum wage” means the wage provided for in paragraph 4 payable to an employee after the commencement of this Order;

“Farm clerk/storeman” means an employee who is employed fulltime on day to day duties of keeping all relevant records associated therewith;

“Field induna” means an employee who is in charge of a number of labourers of any category;

“General labourer” means an employee who requires only limited training and includes field labourers, cleaners, sweepers, pickers, produce packers, produce graders, field recorders, messengers, workshop assistants and spanner hands;

“Handyman” means a person who is capable of carrying out elementary tasks in either masonry, plumbing, carpentry or mechanics associated with such work on a farm with reasonable proficiency and without continuous supervision but does not include an artisan or an employee erecting ordinary fencing on farms;

“Heavy machine operator” means an employee who has qualification of a tractor driver and is able to operate a selfpropelled combine harvester, motor grader, crane, excavator, ditch digger or similar heavy machine;

“Irrigator” means an employee involved in the application of water to field crops and work associated therewith;

“Motor vehicle driver” means an employee employed as a driver and who is in charge of the vehicle and its daily care;

“Plant or pump house attendant” means an employee who attends stationary plant or equipment;

“Seasonal worker” means an employee the duration of whose contract of employment cannot be predetermined, which is entered into for a specific season, or for work to be done on or in connection with a specific project or activity;

“Stockman” means an employee who attends or herds animals and work associated therewith;

“Tractor driver” means an employee who drives a tractor and is able to take complete charge of the tractor, operate it and all its associated implements, to complete a given task without supervision and carry out the daily care of the tractor;

“Watchman” means an employee who is engaged during the day or night guarding and protecting premises or property as directed by his employer;

Application.

3. (1) This Order shall apply to all persons employed in any undertaking carrying on one or more of the following activities for gain—

- (a) cultivation of land and the use of land (irrigated or otherwise) for the purpose of animal husbandry, horticulture, fruit growing, dairy farming, livestock small animal and poultry keeping or breeding, apiculture and the growth and/ or production of seed;
- (b) the use of land as grazing or meadowlands, market gardens, nursery grounds;
- (c) all handling and processing normally carried out on a farm or estate including crop cleaning, winnowing, drying, sacking, packing, cartoning, livestock food preparation;
- (d) the construction, maintenance and repair of farm building and installations, machinery, plant, equipment, the running of irrigation scheme and the keeping of farm or estate accounts.

(2) This Order shall not apply to any undertaking, engaged in the retail supply of motor vehicles, agricultural machinery, mobile construction plant or the repair, servicing, assembling or adaptation of such vehicles machinery or plant on behalf of other persons or under a licence.

Basic Minimum Wage.

4. (1) The basic minimum wage to be paid to any employee specified in the First Schedule shall not be less favourable than that specified therein for the employee concerned.

(2) No employee who at the date of commencement of this Order is in receipt of a higher wage for his occupation than the wage prescribed in the First Schedule shall suffer any reduction in such wage by reason of this Order.

Hours of work.

5. The normal hours of work shall, subject to the provisions of paragraph 6 be fifty-seven hours of work spread over a period not exceeding six days in a week. Provided that the normal hours of work for watchmen, stockmen, irrigators, plant and pumphouse attendants shall be seventy-two hours.

Overtime.

6. An employee required to work in excess of the normal working hours specified in paragraph 5 shall be paid at one-and-half times the basic hourly rate for such time worked from Monday to Saturday, inclusive, and at twice his basic hourly rate for excess time worked on Sundays, or the public holidays referred to in the Second Schedule.

Public Holidays.

7. (1) Subject to sub-paragraph (2), the public holidays specified in the Second Schedule shall subject to the provisions of paragraph 6 be holidays with full pay.

(2) The provisions of sub-paragraph (1) shall only apply where the employee presents himself for work on the working day immediately prior to the public holiday and the working day immediately following the public holiday except where the employee concerned has received permission from his employer to be absent on either day.

Task and Ticket Contracts.

8. (1) Nothing in this Order shall prevent an employer and employee from agreeing to the substitution of a task for the normal hours of work in any day.

(2) An employee who is engaged on a ticket contract shall be paid at least once a month in relation to the number of days he has worked under such contract.

Employment of Women.

9. An adult female employee shall be paid the basic minimum wage payable to an adult male person employed in a similar capacity.

Employment of Children and Young Persons.

10. Wages payable to young persons and children shall, for a person under the apparent age of fifteen years, be calculated at a rate not less favourable than 50% of the rates of wages specified in the First Schedule and 75% of the rates of wages for a person of the apparent age of fifteen but not exceeding the apparent age of eighteen years who are engaged in the occupations specified in the Schedule:

Provided that where task work is being performed the rate of payment shall be the same for all persons engaged in the task, irrespective of age or sex, but payment shall be calculated in respect of the volume of work done or proportionate to the amount of task completed.

Lay off due to wet inclement weather.

11. Any employee who makes himself available for work but does not work during a continuous period of wet inclement weather shall be entitled to his basic wage for the first day, half his basic wage on the second and third days of such wet weather, and nothing thereafter for the rest of the duration of the wet weather.

Protective Clothing.

12. (1) If it is necessary to protect an employee from physical or chemical injury which may arise from the work he is required to do, the employer shall supply that employee with adequate protective clothing, and such employee shall use the protective clothing as instructed.

(2) Any employer who has supplied his employee with protective clothing may deduct from the wages of that employee a sum not exceeding the cost price of the clothing but shall, upon the return of the protective clothing, refund such sum of money to his employee provided that the clothing is in a serviceable condition, fair wear and tear being accepted.

Rations.

13. Subject to the provisions of Section 153 of the Employment Act 1980, employees who were in receipt of rations or meals or cash allowance in lieu of rations shall continue to receive such rations or meals or such cash allowance.

Revocation of Legal Notice No. 128 of 1984.

14. The Regulation of Wages (Agricultural Industry) Order, 1984 is hereby revoked.

FIRST SCHEDULE

(Paragraph 4)

Basic Minimum Wage per day

General Labourer	E1.71
Seasonal Worker	E1.71
Stockman	E1.71
Watchman	E1.76
Irrigator	E1.76
Plant or pump house attendant	E1.76
Field Induna	E2.14
Handyman	E2.15
Tractor Driver	E2.30
Farm Clerk/Storeman	E2.68
Motor vehicle Driver	E2.68
Heavy machine operator	E3.08
Artisan	E4.39

SECOND SCHEDULE

(Paragraph 7)

Incwala Day
 Good Friday
 Somhlolo Day (Independence)
 Christmas Day
 Boxing Day
 King's Birthday
 Umhlanga (Reed Dance) Day

J.D. MNGOMEZULU
Principal Secretary Ministry of Labour

LEGAL NOTICE NO. 84 OF 1986

THE WAGES ACT, 1964

(Act No. 16 of 1964)

THE REGULATION OF WAGES (BUILDING AND CONSTRUCTION
INDUSTRY) ORDER, 1986

(Under Section 11)

In exercise of the powers conferred on him by section 11 of the Wages Act, 1964, the Minister for Labour and Public Service hereby makes the following Order:-

Citation.

1. This Order may be cited as the Regulation of Wages (Building and Construction Industry) Order, 1986 and shall come into force on the 18th August, 1986.

Interpretation.

2. In this Order, unless the context otherwise requires:-

"clerk" (without certificate) means an employee who does not hold the Senior Certificate of Education or its equivalent and who is engaged in general clerical duties;

"clerk" (with certificate) means an employee who holds the Senior certificate of Education and who is engaged in general clerical duties;

"cook" means an employee engaged in cooking and issuing of food to other employees;

"typist" means an employee mainly engaged in typing, checking figures and filing, and who is capable of typing a minimum of 30 words per minute;

"crane driver" (mobile) means an employee who operates a self propelled crane;

"crane driver" (tower) means an employee who operates a tower crane;

"driver" (light vehicle) means an employee whose duties, in addition to being in charge of a motor vehicle of under 5 tons laden weight, include handling to and from the tailboard and the daily maintenance and cleaning of such vehicle;

"driver" (heavy duty) means an employee in possession of a heavy duty driver's licence and who is in charge of a motor vehicle of between 5 tons and 10 tons loaded including handling to and from the tailboard and the daily maintenance and cleaning of such vehicle;

"driver" (extra heavy) means an employee in possession of a heavy duty driver's licence and who is in charge of a vehicle in excess of 10 tons laden weight including articulated vehicles and is responsible for the safety of the load;

"family" means, in relation to an employee, the wife and unmarried children under the age of eighteen living with the employee or the employer's property;

"general labourer" means an employee who performs general unskilled work;

"general tradesman" means an employee who holds a trade test certificate recognised by the Government in one of the following trades:-

Block layer/Plasterer

Brick layer/Tiler

Joiner/Cabinet Making
 Shutterhand/Carpenter
 Painter/Glazier
 Plumber/Drainlayer
 Welder
 Electrician
 Wireman
 Mechanic
 Plant Fitter
 Steel Fixer
 Boiler Maker
 Pipe Fitter.

"induna" means an employee in charge of other employees;

"plant operator" means a person who is placed in charge of operating either a mixer, dumper or tractor;

"machine" means an item of heavy duty plant capable of moving under its own power and used for earth-moving or similar operations, or any other machine which, in opinion of the Commissioner of Labour, is a machine in terms of this Order;

"machine operator" means an employee who has been operating a machine in the Building and Construction Industry for six or more months, or who can show proof of six months relevant experience in another industry;

"earthmover operator" means a person who operates a machine;

"storeman" means a person who apart from carrying out the duties of a store's clerk, is responsible for ordering certain items on behalf of his employer;

"tea maker" means an employee who is engaged to routinely clean offices and to prepare refreshments;

"normal working hours" means the hours of work specified in paragraph 5;

"trade tested person/tradesman" means a person who holds a craft certificate indicating the degree of proficiency attained by him as indicated by a trade test conducted by a trade testing officer duly appointed as such in the public service;

"watchman or security guard" means an employee who is engaged during the day or night to guard the premises or other property of his employer.

Application.

3. (1) Subject to sub-paragraph (2) this Order shall apply to persons specified in the First Schedule who are employed in any undertaking or part of an undertaking which carries on for gain one or more of the following activities:-

- (a) the construction, structural alteration, maintenance, of any railway line, siding, public or private road, thoroughfare, airfield, tunnel, bridge, viaduct, waterwork, lattice work, or other structure designed solely for the support of electric lines; or
- (b) the construction, structural alteration, maintenance repair or demolition of any building, fencing and preparing or laying the foundation of a building or an intended building.

(2) This Order shall not apply to persons employed in any undertaking or part thereof operated by:-

- (a) the Government;
- (b) a local authority; or
- (c) such charitable or religious organisation, educational or medical institution as may be specified in writing by the Minister.

Basic Minimum Wage (First Schedule).

4. The employees specified in the First Schedule shall be paid a basic minimum wage calculated at a rate not less favourable than that specified in that Schedule.

Normal Working Hours.

5. (1) Subject to the provisions of paragraph 6, the normal working week (other than for a watchman or security guard) shall be from Monday to Friday and shall consist of forty-seven and one half hours.

(2) The normal working hours per day (other than for a watchman or security guard) shall be nine and one half hours exclusive of meal breaks.

(3) The normal working week for a watchman or security guard shall be seventy-two hours spread over six shifts, each of twelve hours, inclusive of meal breaks.

(4) No employee, other than a watchman or security guard shall be required to work for more than five hours without a break of not less than thirty minutes.

Overtime.

6. (1) Subject to paragraph 12 overtime for an employee other than a watchman or security guard shall be payable at the following rates:-

- (a) during the normal working week for overtime worked before midnight in excess of the normal working hours, at one and one third times his normal hourly rate of wages;
- (b) during the normal working week for overtime worked after midnight in continuation of normal working hours or other overtime working, at twice his normal hourly rate of wages;
- (c) for any time worked on Saturday before 4 p.m. at one and half times his normal hourly rate of wages;
- (d) for any time worked on a public holiday specified in the Second Schedule, Sunday or after 4.00 p.m. on a Saturday at twice his normal hourly rate of wages.

(2) Overtime in respect of a watchman or security guard shall be calculated at twice his normal hourly rate for all time worked on a public holiday specified in the Second Schedule or any time worked in excess of twelve hours on any normal working day. Provided that any watchman or security guard who has been absent from work during any week without reasonable cause shall not be entitled to overtime in that week until he has completed seventy-two hours of work.

(3) For the purposes of calculating the payment of overtime in respect of a watchman or security guard the normal hourly rate of wages shall be the amount arrived at by dividing the employee's daily wage by twelve.

Annual Leave.

7. (1) After three months of continuous service, an employee shall be entitled to one day's leave on full pay in respect of each month's continuous service. Such leave which is in addition to the Public Holidays specified in the Second Schedule and any other days which are not normal working days shall be taken during the Industry's Statutory three week shutdown in December and January of each year.

An employee with 11 months continuous service will be granted 2 days leave on full pay during the twelfth month of employment which leave together with the Public Holidays of Christmas Day and New Year's day will provide full pay for the Industry shutdown.

Sick Leave.

8. Where an employee who has been in the continuous employment of the employer for three or more months through no fault of his own becomes ill and incapable of performing his duties, he shall on production of a certificate issued by a practitioner registered under the Medical and Dental Practitioner's Act, 1970, be entitled to fourteen working days sick leave with full pay and fourteen working days sick leave with half pay during any period of twelve months.

Travelling and Subsistence Allowances.

9. (1) Where an employee is temporarily employed at a place which is situated from his normal place of work by a distance of more than two kilometres by road, his employer shall provide him with free transport to and from his normal place of work and the place of temporary employment.

(2) An employee required to travel on duty (other than in the circumstances set out in sub-paragraph (1)) shall be provided either with free transport or be paid by his employer the cost of the travel by public transport.

(3) An employee who is absent on duty away from his normal place of employment for a longer period than twelve hours, and who returns to his normal place of residence without staying overnight shall be paid a subsistence allowance of 70 cents for each period of twelve hours or part thereof of such absence.

(4) An employee who is absent on duty overnight away from his normal place of employment, shall, in respect of each night's absence, be provided by his employer with :-

- (a) free food and accommodation or a nightly allowance of E2.00 in lieu thereof;
- (b) free accommodation and an allowance of 70 cents in lieu of food; or
- (c) free food and an allowance of E1.30 in lieu of accommodation:

Provided that an entitlement to free food, accommodation or allowances under this paragraph shall cease after an employee has been absent from duty for ten or more nights continuously.

(5) An employee entitled to subsistence allowance under sub-paragraph (4), shall not be entitled to subsistence allowance under sub-paragraph (3) in respect of the same period of absence.

(6) Where an employee is permanently transferred by his employer to a new place of employment, he shall be paid, in addition to any other entitlement due to him under this paragraph, a transfer allowance of E2.00.

(7) An employee, who has been provided by his employer with accommodation at his place of permanent employment in which his family is residing with the consent of the employer shall if so required by his employer to transfer to another place of employment, other than for the purpose of seasonal employment, be moved at the expenses of that employer.

Lay-Off.

10. Where an employer is unable to provide work for any employee due to:-

- (a) unavailability of working materials; or
- (b) temporary cessation of work;

he may, subject to him giving the employee not less than twenty-four hours notice, lay-off the employee, without pay, for a maximum period of fifteen working days in the circumstances mentioned in sub-paragraph (a) and for a maximum period of thirty working days in the circumstances mentioned in sub-paragraph (b); at the expiry of fifteen working days or thirty working days as may be applicable, the employer shall either provide work for the employee, or terminate his employment under the provisions of the Employment Act:

Provided that an employee who has been engaged for the duration of a specific project or in connection with a specific project shall, upon commencement of work be informed of the date upon which it is estimated the project will terminate and the specifying of such date of termination, notwithstanding any other law whether or not the project has in fact terminated shall constitute an adequate notice by the employer to the employee of the date of notice of termination of such contract of service.

Lay-off due to weather.

11. (1) An employee who reports for work at his place of employment at the normal time but who is unable to start work due to inclement weather, shall be entitled to a minimum of one and one half hours pay for that day.

(2) An employee who on any day commences work and who, in the opinion of his employer is unable to continue work due to inclement weather, shall be paid for hours he has worked plus an additional one-and-half hours wages.

Public Holidays.

12. The public holidays specified in the Second Schedule shall be holidays with full pay:

Provided that if an employee is absent from work without reasonable cause on the working day immediately before, or the working day immediately after such public holiday, he shall not be entitled to payment for that public holiday.

Clothing, equipment and protective clothing.

13. (1) The employer of a watchman or security guard shall provide him, free of charge with boots or shoes, a police whistle, a club and torch. Where the watchman or security guard is required to work in inclement weather, the employer shall, in addition, provide him with a hat, overcoat or rain coat.

(2) An employee other than a watchman or security guard, who is required to work in direct contact with mass concrete or similar matter which is likely to cause injury to his feet, shall be provided by his employer, free of charge, with a pair of gumboots.

(3) An employee other than a watchman who is required to work outdoors in inclement weather shall be provided by his employer, free of charge, with a waterproof cap or similar garment.

(4) The clothing and equipment supplied to an employee under this paragraph shall be of reasonable quality and shall remain the property of the employer.

(5) Where any protective clothing supplied to an employee under this paragraph is damaged or lost through an employee's negligence, the employer may deduct the cost thereof, after due consideration of wear and tear, from wages due to the employee.

Revocation of Legal Notice No. 133 of 1985.

14. The Regulation of Wages (Building and Construction Industry) Order, 1985 is hereby revoked.

FIRST SCHEDULE

(Paragraph 3 and 4)

Clerk (no certificate)	78 cents an hour
Clerk (with certificate)	85 cents an hour
Cook	78 cents an hour
Crane driver (mobile)	E1.70 an hour
Crane driver (Tower)	E1.48 an hour
Driver (light vehicle)	90 cents an hour
Driver (heavy duty)	E1.11 an hour
Driver (extra heavy)	E1.22 an hour
Earthmover operator	E1.59 an hour
Steel Erector(s)/steel	E1.50 an hour
General Labourer	78 cents an hour
General Tradesman	
Grade III Trade tested	85 cents an hour
Grade II Trade tested	E1.21 an hour
Grade I Trade tested	E1.82 an hour
Induna	91 cents an hour
Plant operator (dumper, mixer, tractor)	91 cents an hour
Storeman	86 cents an hour
Tea maker	48 cents an hour
Typist	81 cents an hour
Survey and soil assistant	78 cents an hour
Watchman/Security guard	E6.53 per shift

SECOND SCHEDULE

(Paragraph 6 and 12)

Independence (Somhlolo) Day

Good Friday

Christmas Day

New year's Day

Umhlanga (Reed Dance) Day

King's Birthday

Incwala Day

Easter Monday.

J.D. MNGOMEZULU

Principal Secretary